

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish A Framework for Network Architecture Development of Dominant Carrier Networks.

Rulemaking 93-04-003  
(Filed April 7, 1993)

Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks.

Investigation 93-04-002  
(Filed April 7, 1993)  
**(Verizon UNE Phase)**

**ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING IN PART MOTION TO STRIKE  
OF AT&T COMMUNICATIONS OF CALIFORNIA, INC.**

On January 12, 2004, AT&T Communications of California, Inc. (AT&T) filed a motion to strike several portions of Verizon California's (Verizon's) November 3, 2003 opening cost filing in this phase of Rulemaking 93-04-003/Investigation 93-04-002 (hereinafter "OANAD.") The majority of AT&T's motion to strike was ruled on at a law & motion hearing of February 3, 2004. This ruling disposes of the one portion of AT&T's motion that remained outstanding after the law and motion hearing.

**AT&T Motion to Strike**

AT&T requests that the Commission strike portions of Verizon's cost filing pertaining to recovery of Operations Support Systems (OSS) costs. AT&T claims that the recurring monthly OSS "transition and transaction costs" proposed by Verizon relate to implementation of local competition and are not properly

within the scope of this phase of OANAD. TURN, several competitive local carriers (CLECs) that joined TURN in commenting, and ORA agree that any proposals for recovery of local competition implementation costs are outside the scope of this proceeding and should be stricken.

Verizon responds that OSS is an “unbundled network element” (UNE) as defined by the FCC, and Verizon should be allowed the opportunity to propose recurring costs for OSS system upgrades (transition costs) and ongoing operations and maintenance for OSS (transaction costs). Verizon disputes the claim that its OSS costs are local competition implementation costs. Pacific Bell Telephone Company (now “SBC”) supports Verizon’s view that OSS is a UNE and Verizon should be allowed to make its case for recovery of recurring OSS operations and maintenance costs.

### **Discussion**

I find that AT&T’s motion to strike Verizon’s proposal for OSS recurring costs should be granted because the Commission has historically reviewed OSS costs separately from other UNE costs. Moreover, the complexity and contentiousness of issues surrounding OSS costs could easily delay the effort to set final UNE prices for Verizon’s other UNEs, and are more appropriately handled through a new application.

The Commission has dealt with OSS costs, both recurring and non-recurring, in a separate “OSS/nonrecurring cost (NRC)” phase of OANAD because of the complexity of the issues raised in OSS cost studies. In Decision (D.) 98-12-079 in the OSS/NRC phase, the Commission found that previous proposals by Verizon (formerly GTEC) and SBC (formerly Pacific Bell Telephone Company) for recovery of recurring OSS costs did not adequately address whether OSS functions might provide benefits to incumbent local exchange

carrier (ILEC) retail operations and, therefore, should be recovered from both retail and wholesale customers. (D.98-12-079, *mimeo* at 45.) The same Commission order found that GTEC's OSS recurring cost proposal was an improper blend of sunk costs, ongoing operations costs and implementation costs, and directed GTEC and Pacific to seek recovery of OSS recurring costs, as well as implementation costs, in the local competition rulemaking (R.95-04-043). (*Id.* at 46.)

While Verizon's current proposal differs from the one that was rejected in D.98-12-079, it will undoubtedly raise many of the same issue and be no less complex or contentious. Specifically, Verizon is proposing to recover "transition costs" it incurred after 2000 for "improving OSS infrastructure," which includes "costs Verizon incurred to respond to national industry standards and CLEC and Verizon initiatives to improve and enhance OSS for the benefit of CLECs." (Opposition of Verizon, 1/27/04, p. 8.) In the OSS/NRC phase of OANAD, GTEC sought to recover recurring costs associated with providing gateways to OSS. (D.98-12-079, at 42-43.) Parties now argue that these "transition" or upgrade costs appear similar to the type of OSS costs the Commission considered implementation costs and reviewed in R.95-04-043. In D.98-11-066, the Commission defined implementation costs by stating,

"The general characteristic of an 'implementation cost' is that it relates to development of processes and functions which are not linked to a particular carrier or transaction, but which relates to the underlying competitive infrastructure developed for the use of carriers generally." (D.98-11-066, *mimeo* at 13.)

Further, the Commission found that implementation costs should be recovered in a competitively neutral manner from all end-users. (*Id.* at 21.) The Commission will certainly need to consider whether the costs Verizon now terms

“transition costs” for upgrades to OSS are appropriate to be recovered from CLECs alone as either recurring or nonrecurring costs, or as implementation costs applied to all end-users.

Verizon is also proposing a new recurring OSS charge to recover “transaction costs” for ongoing OSS operations and maintenance costs. Again, Verizon made a similar proposal in the OSS/NRC phase of OANAD, which the Commission rejected in D.98-12-079 because it was not adequately supported. (D.98-12-079 at 46.) Although I agree Verizon should have the opportunity to make a new showing for recovery of any recurring costs related to its OSS UNE, I do not agree that this should take place in the current phase of this proceeding. It is more reasonable for the Commission to review OSS separately from other UNE recurring charges at issue in this docket because OSS systems involve separate cost studies, and raise separate and complex issues that would most likely delay resolution of this case. Verizon currently recovers OSS costs through nonrecurring charges. The Commission may want to consider whether it is more appropriate to recover OSS operations and maintenance costs through a modification to OSS nonrecurring charges. I have already granted AT&T’s motion to strike Verizon’s new nonrecurring cost proposals from this Verizon UNE phase and suggested that Verizon should file nonrecurring proposals as a new application. It is more logical to look at all new OSS recurring and nonrecurring cost recovery proposals together. Verizon should file a separate application to consider any additions to its current OSS charges, whether the charges it proposes are recurring or nonrecurring.

Therefore, **IT IS RULED** that:

1. AT&T Communications of California, Inc.'s January 12, 2004 motion to strike portions of Verizon California's November 3, 2003 cost filing pertaining to recovery of Operations Support Systems (OSS) costs is granted.

2. Within 14 days of this ruling, Verizon shall identify in a supplemental filing all portions of its November 3, 2003 filing pertaining to recovery of OSS costs that have been stricken by this ruling.

Dated February 6, 2004, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting in Part Motion to Strike of AT&T Communications of California, Inc. on all parties of record in this proceeding or their attorneys of record.

Dated February 6, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

**N O T I C E**

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R.93-04-003, I.93-04-002 DOT/hl2

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